

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JO ANN FONZONE aka JUDY MC GRATH, PLAINTIFF

CIVIL ACTION LAW
12-5726

VS.

JOE OTERI, ET AL , DEFENDANTS

PLAINTIFF'S REPLY TO DEFENDANTS RESPONSE AND MOTION TO DISMISS PERSONAL
INJURY/CIVIL RIGHTS ACTION FOR LACK OF PROSECUTION

Plaintiff , by and through her attorney, Jo Ann Fonzone, Esquire hereby files this Reply to yet another one of defendants attempts to deny Plaintiff of her constitutional rights to have her injury action fully litigated in the Federal Court of the United States of America. The trial date was set for April 19, 2022, but as Plaintiff continues treatment for the many injuries and permanent irreparable medical damages she suffered on October 6, 2010 and the consequential resulting damages therefrom the case was properly stayed by the Federal Magistrate. Plaintiff had to get a cortisone injection in her right hand prior to being able to prepare this Reply.

1. FACTS AND PROCEDURAL HISTORY

Plaintiff hereby incorporates the June 4, 2021 Reply to defendant motion last year to dismiss her case and reiterates that all defendants should be in the case as per Judge Davis order and item 51 on docket, the Amended complaint of July 7, 2015 is the operative complaint.

It is incredulous that defendants are trying to dismiss now on FRCP41(b) lack of prosecution when plaintiff has been filing and complying with , answering all of their pleadings and discovery and complying with court Orders timely without fail despite all of the obstacles she has had . Some of these include, her original lawyer who prepared the original complaint Mr. Bailey withdrew in 2013 due to medical issues, Plaintiff was unaware of the August 15, 2014 Rule to show cause as she

was not served with it, Mr. Bailey did not communicate this. When Plaintiff learned the case had been dismissed, she immediately filed a Motion to Reopen when Judge Davis was presiding.

Philadelphia new city attorney, in her recitation of items on the docket, fails to mention an important item, No 51, on the prior page by Plaintiff. All of the facts and circumstances must be included in the case. Moreover, in addition to that item ordering that the operative complaint was the July 7, 2015 Amended complaint, the new city attorney must be aware of the fact that she represents all those defendants in that complaint employed by and are state actors for the city of Philadelphia. These include: Riverside prison, C.O. Fisher, Phila. Bench warrant unit, and the named police officers Evans, Kelewishki, Kovacs, Ortiz, Bee.

The defendants added in state supplemental claims which arose out of the original incident and but for the fact of false arrest and baseless warrant (for non-appearance in court_ when she had notified the prosecutor and the Clerk by certified mail of her inability to appear because of a cardiologist appointment, this would not have occurred.. Plaintiff told her then lawyer Mr. Dixon to inform the court of this fact, that she had a cardiologist appointment; for some reason, he did not inform the court, and on Friday morning at about two a.m. the bench warrant unit from Philadelphia stormed into my mother's home and greatly frightened us both. Mr. Dixon private attorney could not bother to tell his client a warrant had been issued though tried to reach him many times earlier that day.

Plaintiff was to be taken to the court for bench warrant hearing but instead was taken to Riverside, after having to go to the hospital as the unit driver sped at 100 miles an hour on the turnpike which further stressed and scared plaintiff; she went into atrial fibrillation and asked to be taken to a hospital.

Naturally when someone is brought to a hospital in shackles and handcuffs, medical staff wants to get the patient off the premises as quickly as possible. So, rather than being admitted, Plaintiff was released and taken to Riverside and arrived there early Friday morning. She knew she was there for weekend, but didn't know she would be unable to attend a very important Argument in another county

on her ID theft action since 1981 scheduled for Tuesday

When she could, Plaintiff phoned her family and asked them to hire a new lawyer to get her out as she was not being given her correct heart medication and was afraid for her life as her cellmate was detoxing from heroin and threatened to kill her. Needless to say, Plaintiff was very afraid of her. Several grievances were submitted to the Warden about the above stated problems and that she had to be in court on Tuesday September 27, 2011 for a civil matter, but was ignored. When Plaintiff's family told her they hired a new lawyer and she would be released Monday the 26th, to go to bench warrant court, plaintiff felt relief. On that morning, Plaintiff was taken downstairs with others to get on a bus to court. Astonishingly, when she got to the door, she was stopped by Officer Fisher and told she could not leave until Wednesday. As the bench warrant unit took her warrant upon arrival, Plaintiff was unaware of Phila. Crim Rule of Procedure 150(A)(5) which states that a person can only be held on a bench warrant for three days. Wrongly held for six days and unable to appear at the scheduled civil proceeding was the result. The warrant stated that rule and that Fonzone was to be taken to Criminal Justice center on Friday and not the prison. Because the bench warrant unit did not follow procedure or policy and the Judge's Order on the warrant, the very important Argument was dismissed September 27, 2011 ; Plaintiff was wrongly held at Riverside until September 28, 2011. These city employees deprived plaintiff of her right to appear in court on September 26 and September 27 as a result plaintiff suffered immeasurable damages as the civil case was against large corporations for a significant amount of damages over three decades. Plaintiff was denied her rights to 14th Amendment due process., and suffered damage to her reputation with this false warrant and unlawful detention.

If an individual's constitutional or civil rights are violated, there is no qualified or any immunity for government or state actors under the Pa state law Tort claims Act. 42 Pa. Cons.Stat. Sec. 8541

After the phone conference of March 10, 2022, Plaintiff did not have notice of the court's Order to show cause until March 21, 2022 when she went to the Federal court in her hometown and asked for

copy of the Order. Worried that the case might be dismissed before she had a chance to reply, Plaintiff sat in the clerk's office and hand wrote her reply and filed then served it by U.S. mail .Item 204

That was two weeks ago, how can defendants accuse Plaintiff of failing to prosecute ? That term is applicable for plaintiffs who let their cases sit idle for years, not those who are diligent and keep up with compliance of court orders and the case to the best of our ability and health allows us to.

Plaintiff received defendants Memorandum and Response on April 4 and has 14 days to file her reply.

Plaintiff is an attorney but when self represnting or pro se is not required to file a Notice of Appearance

2. ARGUMENT

Plaintiff's case against defendants must not be dismissed for lack of prosecution pursuant to FRCP41(b) or an other rule as there are many issues of genuine material fact in dispute and Plaintiff has worked very hard despite overwhelming circumstances to pursue her rights for fair and just adjudication of her case. Many questions remain because Defendants failed to answer Discovery and contrary to what the previous city attorney told Plaintiff, he failed to depose Joe Oteri and others.

There was no investigation in this case, this is true, if you dont talk to witnessess, you dont want to find out the facts. Plaintiff provided names of witnesses, the police and prosecutors refused to speak with any of them, even the officer who saw Plaintiff's swollen and brusied hand, arm, neck and had her taken to the Emergency Room .Plaintiff provided her Protection from Abuse Order yet no question

To this day, Plaintiff does not have any information about what the probable cause to arrest was or who determined it. Was it Oteri acting with the delegated duty of police then he was a state actor. And that is why Mr. Bailey put his name as lead defendant on the complaint. How he and other defendants were taken out of the case was an error after Judge Davis retired as there was a concerted effort to deprive Plaintiff of her constituional rights from the beginning . Right to know requests and documents with the court were filed by Plaintiff about this, along with requests for copies of all police reports, though these were wrongly withheld from her for more than two years in violation of four Discovery Orders by

Municipal court Judges. What evidence did the police have to make the arrest; 'none' and that is clearly insufficient for a legitimate prosecution. Plaintiff provided medical reports to defendants and the court. When records are requested and not produced, defendant must justify its refusal to produce records or things. Defendants produced no records Plaintiff requested in discovery, that's why she continued to ask to open Discovery. Where is the videotape from the concourse at the stadium and why won't they turn it over? Were there any cell phone videos? Why didn't the police ask at the scene for these? Why didn't police speak to anyone seated near Plaintiff that had been on the bus with her from Allentown? How previous complaints were filed against any of the police defendants? If there is nothing to hide, parties do not hide information.

To discuss defendants' interpretation of rule 41(b), (though it is a judge's job to interpret the law and not defense lawyers), in reviewing the six part test of the *Poulis v. State Farm Fire & Cas. Co.*, 747 F.2d 863, 868 (3d Cir. 1984), contrary to defendants' assertion, none of the six factors are applicable to Plaintiff's conduct in the course of this litigation. The six factors will be examined one at a time.

1) Plaintiff's personal responsibility. Indeed Plaintiff has had all the responsibility since her original lawyer withdrew in 2013 and even though retained another lawyer several years later, (who did not even show up in court, but talked with Judge on a phone call while Plaintiff was in court and told the Judge she was representing Plaintiff but did nothing but lie to a Federal Judge in Reading, Pa). Since then Plaintiff has had to wear all the hats, Attorney, Witness, Victim and Plaintiff. Fonzone has done this while undergoing continuous medical treatment, several hospitalizations for trauma caused heart conditions, and other injuries, chest wall injury and, spine surgeries, breathing difficulties from chest injury, treatment for concussion, tbi, migraines, tinnitus, seizures, pba, right ear hearing loss, right shoulder injury treatment, fractured right wrist, dominant right hand weakness, much physical therapy, many spinal injections, chronic pain, at times so excruciating that visits to emergency rooms were necessary, mouth bleeding, (yet unknown source), from suffering head, neck, chest, right side trauma

from having front top of her head pushed into the hard back of the stadium seat by Oteri then Oteri and Kelewishki, suffering a concussion, neck trauma, then later suffering injury to arms and shoulder when dragged by back of arms at elbows by officers Bee and kelewishki across the concourse while standing watching the game for 10-15 minutes , then in the police cell room when thrown against the wall twice by kelewiscki suffering head,neck, right shoulder and hand and wrist injuries , then when struck with his nightstick repeatedly on chest because dispatch called the room and told them I called 911 for help, he wanted my phone,(must of thought it was a camera phone,but it was not), all of these injuries led to chronic pain, continuous medical treatment , required and continuous treatments, medications, pain and suffering, loss of enjoyment of life, extreme emotional distress,humiliation and embarrassment,mistreatment of a crime victim. The inconvenience and cost of having to travel to Philadelphia court many times for four years as prosecution dragged on and continued the case endlessly because the had no witnesses show up for years,(they even illegally continued the case after Plaintiff had it dismissed with prejudice in 2012,). The increase in medical insurance premiums until they became unaffordable as the injuries disabled Plaintiff ,delay of Plaintiff's other pending litigation, costs of this and criminal litigation, dismissal of a very important ID theft injury case because of this travesty of justice, dismissal of defamation case ,complete damage to Plaintiff's legal career, damage to Plaintiff's personal relationship, malicious prosecution as they knowingly misrepresented facts to the Court , police and Oteri lied to protect their criminal violent activities .There was a total cover up of the truth and evidence by police and rogue asst. prosecutors, violating Plaintiff's rights,slandering and libeling her because she would not plead guilty and wanted a dismissal or trial ,she was the crime victim not guilty of any crime while at a Phillies playoff game exercising her 1st Amendment rights. Plaintiff was responsible for having to have medical treatment for all the injuries and damages which disabled her but still managed to do all the legal work since 2013 .There were continuances by both sides,delay while the case was sent to two other Judges when the original Judge retired ,delay for the covid virus for about two years. Moreover, Plaintiff's mother was very ill in early 2020 and in hospital

for six weeks ,sick for rest of the year and Plaintiff took care of her . Plaintiff's aunt died from the covid virus , yes all of these were time delays but not Plaintiff's fault; its called life.If Plaintiff got extensions, she provided the Court with medical documentation or explanation; she was not taking vacations and getting continuances.Yes, plaintiff has been very responsible in meeting deadlines and filng documents in reply to defense motions or whatever throughout this litigation despite all the odds against her.

- 2) There has been NO prejudice to defendants caused by Plaintiff as she did not fail to meet scheduling orders or respond to any discovery. Conversely, it is Plaintiff who has been prejudiced and adversely affected by defendants total disregard of Plaintiff's Discovery requests, both Interrogatories and Document Production Requests. They have either completely failed to reply or replied with insufficient answers to Interrogatories and blatantly refused to provide any documents requested by plaintiff.
- 3) There has been no dilatoriness , much less a history of such by Plaintiff. However, there has been a recurring refusal by defendants to refuse to answer Plaintiff's discovery so that it has been nearly impossible for Plaintiff to have the information she is entitled to to proceed .If there has been delay , it has been caused by defendants refusal to sufficiently respond to discovery, depose those they said they would, so that Plaintiff had to request to compel discovery responses and to open Discovery in order to obtain the answers she is entitled to have for this litigation. What are they hiding and why do they refuse to answer questions or produce documents and things requested? It is defendants that are completely uncooperative and are causing deliberate delay, not the Plaintiff who has sufficiently answered Interrogatories , provided Documents requested because she is not hiding information.
- 4) Whether the conduct of the party was wilful or in bad faith.Plaintiff's conduct was not in bad faith or wilful but rather has in good faith continuously done her best to meet deadlines , do the research and preparation and service of pleadings,answer Discovery

appear for a nearly three hour Deposition , appear in Court prior to covid in front of Judge Davis and in Reading in front of Judge Schmel each time required to do so. Plaintiff strongly contends it is defendants all of them named in the operative complaint that acted in bad faith deliberately to sweep this case and their criminal violent activities under the rug, get rid of it to cover up their criminal misconduct, public corruption, conspiracy to deprive Plaintiff of her civil and constitutional rights, treat her like a criminal defendant wrongly to protect the violent crimes of the perpetrators who seriously injured her through their false implication and arrest , battery, aggravated assaults, reckless endangerment, causing her not only serious injuries but some permanent irreparable damages such as heart conditions and right ear deafness which she will have to endure and treat for the rest of her life. Indeed, defendants have acted and continue to act in wilful bad faith, unethical and unprofessional manner by refusing to extend any offer to Plaintiff for destroying her health and life, and instead act only to deny her rightful discovery and continuously to have her case dismissed.

- 5) Sanctions. Yes, defendants should be sanctioned for everything stated above in paragraphs 1-4. To dismiss Plaintiff's personal injury case is the harshest and most frowned upon ruling there is. This is especially true when a Plaintiff has suffered irreparable damages and permanent loss of body function, here the hearing in her right ear from the head trauma., tinnitus, and other chronic conditions which will not disappear overtime like a broken leg.
- 6) The merit of the case. Plaintiff has sufficiently stated the merits of her case in this and other pleadings, but her medical records and Exhibits will more fully explain Perhaps Ms. Faris did not receive all of the file from her predecessor; he had a large quantity of medical records and other documents like Discovery answers that plaintiff served him with. When considering all of the above mentioned factors or just one of these is more than sufficient to show that this case must not be dismissed because there was no lack of prosecution by Plaintiff.

Consideration of the six factors of Poulis certainly does not warrant dismissal of Plaintiff's case. In fact, not one of the factors can be satisfied to dismiss the case because Plaintiff has conducted herself in a professional manner, has done nothing which could be deemed failure to prosecute her case. Yes, she filed Motions to extend discovery, try to obtain answers and documents from defendants; she had promptly answered defendants' discovery. The reason for Motions to reinstate defendant was explained as necessary to include totality of facts and circumstances and Oteri was named the lead defendant by Plaintiff's prior attorney because, but for his harassment and injury to Plaintiff first, then false implication to police, there would be no case and Plaintiff would not have suffered so many injuries and damages. Careful perusal of the docket evidences that Continuances were made by both sides and by the Court several times; Plaintiff's requests for them were either for her medical reasons or when she was taking care of her mother before and after she was in the hospital with the COVID virus. The Court understood the necessity for the continuances and almost everything was shut down in 2020 and 2021 anyway, so Federal buildings were closed.

Defendant's second assertion about Plaintiff's unwillingness to prosecute this case is pure nonsense. What a shame that the case is pending against the defendants, perhaps they should have thought about consequences to their criminal behavior and misconduct against policy before they injured, falsely implicated and injured Plaintiff then falsely arrested and maliciously prosecuted her to cover up their violent criminal activities. Criminal charges were proper for them. Plaintiff vehemently disagrees with use of a paragraph in *Adams v. Trustees of New Jersey Brewery Employee's Pension Trust Fund*, 29 F.3d 683 (3d Cir. 1994); "the inevitable dimming of witnesses' memories", because that quote states that "prejudice can include". As with any witness, memory is an individual issue based on many things. Age can be a factor, one's ability to remember visual or by ear what they witnessed or their actions; one's health is a factor

There is no definitive rule that determines how much and if an individual can or does remember.

Defendants defense does not diminish but rather is enhanced with time; perhaps they can find witnesses that they did not interview or investigate when they should have at the stadium or ER. It is true in any litigation, parties must be available as long as the case proceeds; what a shame for defendants to have litigation because of all their collective and colluded actions, Plaintiff is disabled. Because of their failure to properly investigate and disdain for seeking the truth, both police and prosecutors, Plaintiff was mistreated as the criminal defendant that the defendants in this lawsuit should have been, and not like the seriously injured crime victim that she is. By the way, ten years is not long for litigation; some divorce cases that drag on for nearly 30 years. Plaintiff has an excellent memory.

To address, defendants third assertion, Plaintiff clearly has not procrastinated with any delay tactics.

Defendants must acknowledge that but for their violent criminal activities, there would be no case, no ten year litigation and Plaintiff would be as healthy as she was prior to October 6, 2010. She would not be taking heart medications and others or have any of the other medical conditions caused by the physical trauma she survived from the aggravated assaults of Oteri and then later by other defendants like Kelewishki. Fonzone called 911 for help as she was in fear for her life from Kelewishki.

Plaintiff did not "claim" that medical issues impeded her ability to conduct discovery. Her many medical issues, treatments and surgeries necessary as a direct result of the October 6, 2010 incidents DID prohibit her so that she needed an extension for a motion reply or discovery. It is the deliberate and blatant refusal to answer Interrogatories and Document Requests in fact denied Plaintiff answers she sought and was entitled to have in discovery. No, she did not want to confront the violent defendants and depose them; Mr. Shotland told her that he was going to depose them. Plaintiff tried to find loyal counsel to do this, but it is very difficult once a case is in litigation to find other counsel. It is also very difficult to wear all the hats and Plaintiff certainly should not have to do everything.

Conversely to defendants' incorrect allegation that Plaintiff seeks re-litigation of settled issues in case

no issue has been settled or litigated, so how can there be any re-litigation? There is no pattern of any tactics to prevent the case from proceeding to trial. Admittedly, the court has authority to assign counsel in a civil rights case, Plaintiff did ask for this because it is difficult to do all the work when physically disabled. Plaintiff alleges that it is defendants that have a pattern of tactics of non-cooperation bad faith tactics to just dismiss the case, deny Plaintiff her right to be made whole, though impossible, as an injured individual, have offered nothing, no conference, no evidentiary hearing, no settlement conference, they are completely unreasonable, no meetings to look at documents or medical records, they have filed no pre-trial stipulation, exhibits or other documents. Defendants pattern of bad faith is wilful and evident. A fan is injured and disabled at a major league game and the team offers zero. Defendants conduct is wilful and self serving according to Adams, 29 F.3d 683 (3d Cir. 1994). They have no intention of acting in a civil and lawyer like fashion in order to resolve this case. There is no iota of fairness in their playbook, they merely want to dismiss with total disregard for Plaintiff's rights as the party seriously injured and disabled by them. Atrial fibrillation is a disability as is right ear deafness and the many orthopaedic damages, chronic migraine and other pain. There are many other injuries and conditions caused by defendants which Plaintiff will have to treat for and endure the rest of her life. Do these defense lawyers have any sense of right and wrong or acknowledge the Rules of Professional Responsibility and fair dealing in litigation?

It is disgraceful how defendants are discussing sanctions to compensate defendants when they caused Plaintiff all the injuries and damages; did defense lawyers read the complaint and Plaintiff's Discovery answers or look at any medical records? Alternative sanctions for what? Defendants must be sanctioned for complete failure to comply with Discovery and for defendants correct information must pay expenses to Plaintiff for their deliberate non-compliance and failure to co-operate with. Discovery Plaintiff is an attorney since 1986 attorneys who self represent are called pro se. She has been in compliance with every court Order without delinquency. Distinguishingly, defendants are continuously delinquent, brazen and fail to reply to Plaintiff's discovery as they are obviously hiding information.

The considerable merits ,substantial injuries permanent physical conditions and damages certainly do weigh strongly against dismissal of Plaintiff's civil rights/injury action.

Yes, the case has not been dismissed, despite defendants desperate attempts , because this Court is cognizant ,there are many genuine issues of material fact in dispute, which defendants would like to sweep under the rug as though the criminal incidents of their clients never happened and did not seriously injure Plaintiff. Their violent unwarranted acts caused Plaintiff injuries and damages.

They might have gotten away with blaming the victim , but the truth eventually will be exposed.

To correct defendants incorrect contention, Plaintiff's claims are not based on any assumption and a good lawyer never assumes anything, especially when all the facts are unknown to him. Fonzone was not lawfully arrested as she did not break any law and to date, there has NEVER been any evidence or probable cause that an arrest was valid or lawful. It was a false arrest prompted by false implication by Oteri who lied to police to protect himself from accountability after he seriously injured Plaintiff at her stadium seat. Oteri brought police instead of medical help after causing her head to be pushed into seat

To further correct defendnants wrong assumptions, Plaintiff was neither disruptive or disorderly while at her seat doing the wave with all other fans, standing, sitting, cheering like fans do at baseball games, particularly playoff games. Exercise of an individual's First Amendment rights in speech or cheering like Plaintiff was doing, is protected and cannot be used to lawfully charge anyone with disorderly conduct. Comm. v. Masterangelo. Fonzone was a business invitee; she was not a trespasser or disorderly, she had a right to be there as no one told her to leave when she stood in concourse for 10-15 minutes watching game until grabbed from behind by police for no reason. Defendants can feel free to admit the false arrest at trial to be countered with overwhelming evidence of police ,prosecution misconduct, and medical records. Where and when was the probable cause and by whom?

After three retained attroneys did nothing to help Fonzone get the false charges dismissed and refused

to argue her Motion to dismiss which she filed in November 2010, Fonzone took over her defense June 2012, (Kotchian was the asst. prosecutor) and got the charges dropped August 22, 2012 with prejudice. Because Kotchian unconstitutionally appealed and failed to give Fonzone notice, went to another judge and deliberately did not mention that the charges had been dropped with prejudice, the case went on. Fonzone learned this when she went to the clerk to file Expungment papers, and knew she better appear or the bench warrant squad could be sent again to her mother's home. Fonzone knew she was being penalized because she filed complaints with police, various government agencies about incidents the victim being prosecuted, rather than the violent perpetrators. IA deemed complaint "FOUNDED"

This travesty had cost thousands by now, so Fonzone accepted appointed counsel rather than retain another lawyer. The appointed lawyer met with Fonzone for about five minutes prior to trial in January 2013, so there was no time for her to bring the witnesses she had subpoenaed, there were four.

Ms. Snyder was very good, the Judge acquitted Fonzone, then at last minute Kotchian whined and the Judge said okay, summary disorderly conduct. The information contained no facts and the definition of misdemeanor not summary disorderly conduct. Similarly, the first information did not contain any facts. Snyder filed a Motion, walked into court, and Fonzone filed a Motion post trial. The Order was never filed, but signed and the conviction was overturned on weight of the evidence or lack thereof. Fonzone did not get a copy of this until a few years later, Snyder appealed then later withdrew without Fonzone's knowledge. The Order had the Judge's signature then oddly, there was something written underneath her signature in other handwriting. This was the second time Fonzone's criminal case was dismissed. Of note here, the site citation against Fonzone was written for unruly by officer Ortiz who was nowhere near the area to see anything. (Odd how the deliberate burning of a building is deemed "not unruly" in cities around the country summer of 2020 but Fonzone doing the wave at a major league baseball playoff game was "unruly"). If fans were not excited, then teams should worry.

The day prior, Fonzone had scheduled a Private Criminal Complaint hearing against Oteri. The clerk

erred by putting the same docket number on this case and asst. prosecutor Engle should not have been on both summary case against Fonzone and her private complaint against Oteri. The Judge would not let Fonzone speak, Engle threatened to get the sheriff so Fonzone left. Later, Ms. Snyder did not object to Engle's dismissal of the private citizen complaint without hearing as Fonzone was not in the room. Moreover, when a case is appealed, according to the Philadelphia rules, prosecution has 120 days to bring case to trial or it is dismissed. The appeal filed by Ms. Snyder, after case had been dismissed twice was February 11, 2013, and asst. kotchian dragged the appeal on with continuances much longer than 120 days or October 2, 2013. The case again legally was dismissed by rule 600, but prosecutorial misconduct kept the case dragging on to further harass Fonzone, innocent crime victim. Three asst. prosecutors Ayers, kotchian and Engle were found by the Court to be in violation of Discovery orders. Fonzone filed Motions for production of all police reports, audio, videotape, and other exculpatory materials which were unconstitutionally withheld by police and prosecution. Brady v. Maryland. Ayers dragged Fonzone through mental health court; hid the report with PTSD diagnosis.

The travesty went on as yet another Judge would not let Fonzone represent herself, and two appointed lawyers were not on her side. Richard Patton in violation of the rules of Professional Responsibility and Ethics sent a derogatory libelous letter to the Judge about his "client" even before he ever spoke with his "client". Who was he talking to? Consequently, the Judge intimidated Fonzone when she asked if there was a CD player in the courtroom, he replied, "Why do you want to dance?"

Fonzone wanted to play the 911 call she made after she was thrown against the wall the first time by Kelewiski and was in fear of her life. (Judge would not allow any of her evidence to be introduced into the record, including her ER record where she told nurse she was assaulted) When the CD was playing, Fonzone cried as she relived the horror, but the Judge had a predetermined opinion because of Patton's disparaging letter. It is strange this malicious prosecution was allowed to proceed from the start; Fonzone's intent was to watch the game, she loves baseball and attended the game she loves.

Defendants here are also wrong in their mistaken assertion that Fonzone did not provide Notice she intends to produce expert evidence that her injuries are linked to the defendants. She has already done that in providing many medical records to the Court and to Mr Shotland. Further, at the scheduling conference with Judge Davis, she stated that she would have medical experts. As medical records are admissible and speak for themselves, it is quite ignorant for defendants to make such an assertion. Did they not read the file or Discovery provided by Fonzone?


Distinguishing the case at bar with Poulis, there are no similarities which make them analogous at all. There is no scintilla or any factor here which could possibly rise to the level of the harshest penalty to an injured Plaintiff, that of dismissal with prejudice. Defendants are incorrect; Plaintiff did not have ten years to propound or review discovery. First, Fonzone had many medical issues to treat which consumed a tremendous amount of time and will the rest of her life. Secondly, defendants have failed to sufficiently or completely failed to answer and cooperate in the Discovery process so Plaintiff had almost no Discovery to review or proceed. How can a case be brought to trial with such huge inconsistencies and wilful omissions to participate in discovery in this case? No investigation was done by police, no answers to Interrogatories about prior police complaints brought against defendants.

Conversely, it is the defendants who have failed miserably at every step to provide the Discovery answers Plaintiff is entitled to have in order to proceed and gather facts about defendants which have been kept hidden by their lawyers. The remedy is compulsion of complete Discovery answers of defendants, including depositions and videotape at stadium, reasonable offer made and stay of case

3. CONCLUSION

WHEREFORE, based on the aforementioned, Plaintiff respectfully requests that this case proceed and not be dismissed with prejudice in the interests of justice.

Dated: April 18, 2022


Jo Ann Fonzone, Esquire
Pa Id No. 203914

PHILADELPHIA POLICE DEPARTMENT									
COMPLAINT OR INCIDENT REPORT									
YEAR 10	DIST/OCC. 09	D.C. NO. 62707	SECT. 03	DIST. 03	VEH. NO. 03005	REPORT DATE 10-6-1			
CRIME OR INCIDENT CLASSIFICATION			CODE	TIME OUT		TIME IN			
LOCATION OF OCCURRENCE Citizens bank way			500/07		<input type="checkbox"/> IN <input checked="" type="checkbox"/> OUT		TYPE OF PREM.		
DATE OF OCCUR. 10-6-10		DAY CODE 3	TIME OF OCCUR. 615		A P		NATURE OF INJURY none		
COMPLAINANT Police			AGE	RACE	SEX	PHONE (HOME)			
ADDRESS						PHONE (BUSINESS)			
FOUNDED <input type="checkbox"/> Yes <input type="checkbox"/> No		REPORT TO FOLLOW <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Close Out			UNIT		CODE		INV. CONT
WITNESS <input type="checkbox"/> Yes <input type="checkbox"/> No		TRACEABLE PROP. <input type="checkbox"/> Yes <input type="checkbox"/> No		UNIQUE DESCRIPTION OF OFFENDER <input type="checkbox"/> Yes <input type="checkbox"/> No		OTHER EVIDENCE <input type="checkbox"/> Yes <input type="checkbox"/> No			
DESCRIPTION OF INCIDENT (Include Description of Crime Scene if Applicable) Site Arrest Offender was placed under arrest #10-03-6270 for disorderly conduct after being told multiple times to sit down and stop being noisy during the game.									
WITNESS			ADDRESS			PHONE NO.			
OFFENDER INFORMATION Jo Ann Lanzore 719-58 w/f 5550 N. Ocean Drive.									
PROPERTY DESCRIPTION (Include Make, Model, Color and Serial No. Where Applicable)			PROP. CODE		INSURED <input type="checkbox"/> Yes <input type="checkbox"/> No		STOLEN VALUE \$		
VEHICLE 1 - OWNER'S NAME									
VEHICLE 2 - OWNER'S NAME									
VEHICLE 1 - OPERATOR'S NAME									
VEHICLE 2 - OPERATOR'S NAME									
WANTED/STOLEN MESSAGE SENT General No. Date		DIST/UNIT TERMINAL		RECEIPT NO.		SENT BY			
REPORT PREPARED BY Plo Ortz				NO. 9681		DIST/UNIT PAGES 14		TOTAL NO. 1	
REVIEWED BY				NO.		DIST/UNIT		REFERRAL DATE	
								CEN NO.	
PURSUANT TO ACT 155 OF 1992, THE BELOW PERSON ACKNOWLEDGES RECEIPT OF THE NOTIFICATION OF VICTIM SERVICES FORM.									

75-48 (Rev. 6/94)

259413

354373

Computer Crime Unit Fax: 215-683-1868

Dec 13 2010 11:39 P.01

PHILADELPHIA POLICE DEPARTMENT

COMPLAINT OR INCIDENT REPORT

YEAR 10	DIST. NO. 2	D.C. NO. 10-01 42106	SECT. 1	UNIT 3	VEH. NO. 302	REPORT 10-7-10
CRIME OR INCIDENT CLASSIFICATION HOSPITAL CASE			CODE 307	TIME OF OCCUR. 1225	TYPE OF INJURY P	
LOCATION OF OCCURRENCE 2301 S 24TH			DATE OF OCCUR. 10-7-10			
DATE OF OCCUR. 10-7-10			DAY CODE 9	TIME OF OCCUR. 1225	NATURE OF INJURY P	
COMPLAINANT JAMIE FORD			AGE 52	RACE W	SEX F	PHONE (HOME) 294 6881
ADDRESS 5550 N OCEAN BL			PHONE (BUS) 294 6881			
FOUNDED <input type="checkbox"/> Yes <input type="checkbox"/> No			REPORT TO FOLLOW <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Close Out			UNIT CODE INV. C
WITNESS <input type="checkbox"/> Yes <input type="checkbox"/> No			TRACEABLE PROP. <input type="checkbox"/> Yes <input type="checkbox"/> No			UNIQUE DESCRIPTION OF OFFENDER <input type="checkbox"/> Yes <input type="checkbox"/> No
DESCRIPTION OF INCIDENT (Include Description of Crime Scene if Applicable) HOSP CASE			OTHER EVIDENCE <input type="checkbox"/> Yes <input type="checkbox"/> No			

ABOUT COMP TRANSPORTED TO MATH
HOSP FOR INJURY TO HER RIGHT
HAND SHE OBTAINED AT PHILADELPHIA
DR HART ON DUTY COMP STATE'S
INJURY WELL PRIOR TO BEING
WITNESS
ADDRESS
OFFENDER INFORMATION
ARRESTED COMP GIVEN
500 MGS TYLENOL

PROPERTY DESCRIPTION (Include Make, Model, Color and Serial No. Where Applicable)	PROP. CODE	INSURED <input type="checkbox"/> Yes <input type="checkbox"/> No	STOLEN VALUE \$
---	------------	---	--------------------

VEHICLE 1 - OWNER'S NAME KIMBERLY	VEHICLE 2 - OWNER'S NAME
VEHICLE 1 - OPERATOR'S NAME H	VEHICLE 2 - OPERATOR'S NAME
WANTED/STOLEN MESSAGE SENT Original No. Date	RECEIPT NO. 4444
REPORT PREPARED BY BALDWIN, DEAN	NO. 3
REVIEWED BY MR. ADDISON	NO. 1
DIST. UNIT 3	
TOTAL PAGES 1	
REFERRAL DATE	
PAGE NO.	
CEN. NO.	

75-48 Form (Rev. 11/08)

174431 / 229683

Injured prior to
arrest by Otis

Exculpatory evidence
hidden by police +
prosecution for
3 years despite
motions requesting
all police reports
and right to
know requests.

I got this Exculpatory evidence
in 2010
DA Adit
Dec 13, 2010

SEARCH PARAMETERS

FROM DATE: 10/06/2010 TIME FROM: 0000
TO DATE: 10/06/2010 TIME TO: 2359
PRIMARY UNIT(S): ALL
TX NUMBER(S): 1003062707
LOCATION(S): ALL
EVENT TYPE(S): ALL
DISTRICT(S): ALL
SECTOR(S): ALL
PRIORITY(S): ALL
DISPOSITION(S): ALL
PAYROLL NUMBER(S): ALL
COMPLAINANT INFO: N FULL DETAILS: Y
BLOCK ADDRESS: ALL
RESPONSE TIME: ALL
GENERAL #: ALL
WORKSTATION ID: ALL
REQUESTED BY: FIVE SQUAD RADIO FOR COURT ATTENDANCE

INCIDENT HISTORY DETAIL

NEW RECORD -- NEW RECORD -- NEW RECORD

CALL 1027906545 DIST CASE 1003062707 CROSS REFERENCE CALL : NO

ENTERED: 10/06/2010 18:13:06 BY C31 () /193260 AS TYPE IYPER

DISPATCHED: 10/06/2010 18:13:06 BY C31 /193260

DISPOSE FILED: 10/06/2010 18:13:06 BY C31 /193260

DISPOSITION: ARR PRIMARY UNIT: 30P PRIORITY: 3

TYPE: IYPER (INVESTIGATE PERSON) ADDR: 1 CITIZENS BANK PARK

IDCN: 1 CITIZENS BANK WAY, PHL (CITIZENS BANK PARK) SECTOR: 3

NAME: DISTRICT: 03

REMARKS: 10/06/2010 18:13:06 BADGE 9404

SEGMENTS: 10/06/2010 18:13:06 ENTRY \$P1003062707 Dispo: ARR

10/06/2010 18:13:06 WALKIN Walkin Event For Unit 30P

10/06/2010 18:13:06 PRIUNIT 30P

10/06/2010 18:13:06 CLOSE D/ARR

TOTAL RECORDS RETRIEVED = 1


SENSITIVE CALLER INFORMATION NOT INTENDED FOR PUBLIC KNOWLEDGE REMOVED FROM THIS REPORT.

JOANN FONZONE, ESQUIRE 09-10 177

10/19/11 Date

Pay to the Order of: City of Philadelphia \$ 50.00


City of Philadelphia xx/100 Dollars

 Bank of America
America's Most Convenient Bank®

For: CAD Joann Fonzone, Esquire

0035001808 4246525153 0477 0000005000

Account: 4246525153
 Amount: 50.00
 PostDate: 20111028
 Tran_ID: 575784246
 CheckNum: 177
 DIN: 575785081
 ReturnReasonDescription:
 ECEItemSeqNum: 000005854622826



WELLS FARGO BANK N.A.
 20111028 50.00
 00010-0001-9

1111 75758

Account: 4246525153
 Amount: 50.00
 PostDate: 20111028
 Tran_ID: 575784246
 CheckNum: 177
 DIN: 575785081
 ReturnReasonDescription:
 ECEItemSeqNum: 000005854622826

CAD REPORT 9/11/2010
 on 10/06/10

INVESTIGATION REPORT

Internal Affairs

PHILADELPHIA POLICE DEPARTMENT

DISTRICT OF OCCURRENCE 3RD		DC NUMBER 79466		REPORT TYPE INITIAL (49)		Sheet 1 of 1		DISTRICT 3RD		SECTOR	
PREVIOUS CLASSIFICATION		CODE		INVESTIGATING OFFICER LT. APPLETON		BADGE 131		PAYROLL 0		DIST / UNIT PREPARING Iad	
CLASSIFICATION C.A.P.		CODE 2704		PLACE OF OCCURRENCE 1 CITIZENS BANK WAY		J.A.D. INVESTIGATIONS <input type="checkbox"/> Male <input type="checkbox"/> Female <input type="checkbox"/> Adult Offenders		CODE 0		REPORT DATE 12/8/10	
COMPLAINANT (USE FIRM NAME) JO ANN FONZONE						AGE 52		RACE WHITE		SEX FEMALE	
COMPLAINANT ADDRESS 2242 TILGHAM ST ALLENTOWN, PA								COMPLAINANT PHONE 484-294-6481			
TYPE OF PREMISES		DATE REPORTED 12/8/10		TIME REPORTED 11:06 AM		REPORTED BY		ADDRESS			
DATE OF OCCURRENCE 10/6/10		DAY CODE 3		TIME 6:13 PM		FOUNDED <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		STATUS 1. <input checked="" type="checkbox"/> Active 2. <input type="checkbox"/> Inactive - not cleared		3. <input type="checkbox"/> Arrest - cleared 4. <input type="checkbox"/> Exceptionally cleared	
STOLEN PROPERTY B. Miscellaneous						PROPERTY VALUE \$ 0		RECOVERED VALUE \$ 0		INSURED <input type="checkbox"/> Yes <input type="checkbox"/> No	
										OCCURRENCE <input type="checkbox"/> Inside <input checked="" type="checkbox"/> Outside	

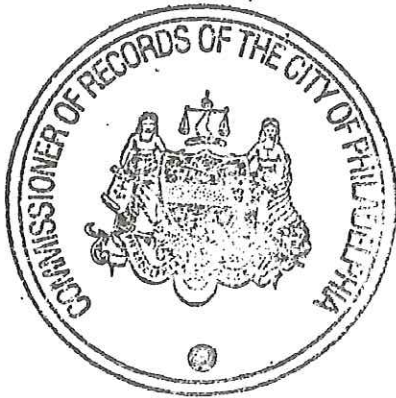
COMPLAINT AGAINST POLICE

DC# 10-03-079466

IAB # 10-0724

-5-

#3364
0715-13
RS
CP# 8161



PHILADELPHIA POLICE DEPARTMENT
COMPLAINT OR INCIDENT REPORT

YEAR 10	DIST/OCC 03	O.C. NO. 79466	SECT. 3	DIST. 3	VEH. NO. FADA 127-10	REPORT DATE 12-7-10
CRIME OR INCIDENT CLASSIFICATION CAP			CODE 2707.3		TIME OF DAY 12:00	
LOCATION OF OCCURRENCE Citizens Bank			TYPE OF 2		TYPE OF 2	
DATE OF OCCUR 12-7-10			DAY CODE 1		TIME OF OCCUR 12:00	
COMPLAINANT Confidential			AGE []		SEX []	
ADDRESS Confidential			PHONE (HOME) []		PHONE (BUS) []	
REPORT TO FOLLOW []			UNIT []		CODE []	
UNIQUE DESCRIPTION OF OFFENDER []			OTHER EVIDENCE []		[]	
DEPARTMENT OF RECORDS (Include Departmental Code and Section)			[]		[]	
WITNESS []			ADDRESS []		PHONE []	
OFFENSE INFORMATION []			[]		[]	
PROPERTY DESCRIPTION & U.S. []			PROPERTY CODE []		INSURED []	
[]			[]		[]	
VEHICLE 1 []			VEHICLE 2 []		[]	
VEHICLE 1 OPERATOR NAME []			VEHICLE 2 OPERATOR NAME []		[]	
WANTED/STOLEN MESSAGE SENT General No 4461 Date 12-7-10			RECEIVED NO		SENT BY M. J. MULLIGAN 3194	
REPORT PREPARED BY M. J. MULLIGAN			DIST. UNIT []		PAGE NO []	
REVIEWED BY CP			DIST. UNIT []		PAGE NO []	
PREPARED TO ACT AS OF 1100 THE BECOMER PERSON AGNOVALES RESORT OF THE NOTIFICATION OF VICTIM'S PROPERTY			[]		[]	

COMPLAINANT OR INCIDENT REF.							
YEAR	DIST./OFF.	D.C. NO.	SECT.	DIST.	VEH. NO.	REPORT DATE	
10	03	79466	3	3	F3A	12-9-10	
CRIME OR INCIDENT CLASSIFICATION				CODE	TIME OUT		TIME IN
CAP				2704	830 P		P
LOCATION OF OCCURRENCE					<input type="checkbox"/> IN <input checked="" type="checkbox"/> OUT TYPE OF PREM.		
10 Chicago Bank Bldg							
DATE OF OCCUR.		DAY CODE	TIME OF OCCUR.		NATURE OF INJURY		
			()		P		
COMPLAINANT				AGE	RACE	SEX	PHONE (HOME)
Confidential							
ADDRESS				PHONE (BUSINESS)			
Confidential							
FOUNDED	REPORT TO FOLLOW			UNIT	CODE	INV. CONT NO.	
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Close Out						
WITNESS		TRACEABLE PROP.		UNIQUE DESCRIPTION OF OFFENDER		OTHER EVIDENCE	
<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Yes <input type="checkbox"/> No	
DESCRIPTION OF INCIDENT (Include Description of Crime Scene if Applicable)							
WITNESS		ADDRESS				PHONE NO.	
OFFENDER INFORMATION							
PROPERTY DESCRIPTION (Include Make, Model, Color and Serial No. Where Applicable)		PROP. CODE		INSURED		STOLEN VALUE	
				<input type="checkbox"/> Yes <input type="checkbox"/> No		\$	
VEHICLE 1—OWNER'S NAME				VEHICLE 2—OWNER'S NAME			
VEHICLE 1—OPERATOR'S NAME				VEHICLE 2—OPERATOR'S NAME			
WANTED/STOLEN MESSAGE SENT		DIST/UNIT TERMINAL		RECEIPT NO.		SENT BY	
General No. 4401 Date 12-9-10		3		547		Middleton 8194	
REPORT PREPARED BY				NO.		DIST/UNIT TOTAL PAGES PAGE NO.	
Middleton 8194							
REVIEWED BY				NO.		DIST/UNIT REFERRAL DATE CEN NO.	
PURSUANT TO ACT 358 OF 1992, THE BELOW PERSON ACKNOWLEDGES RECEIPT OF THE NOTIFICATION							

U (750 Rāna:ca)

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Eastern District of Pennsylvania

JOANN FONZONE (a/k/a Judy McGrath)

Plaintiff

v.

JOE OTERI, OFFICER KELECHEWISCKY,
OFFICER LESINETTE ORTIZ, OFFICER BEE,
OFFICER KOVAC, PHILLIPS, and CITIZENS
BANK PARK

Defendant

Civil Action No. 12-cv-5726

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

DON BAILEY, ESQUIRE
4311 N. 6TH STREET
HARRISBURG, PA 17110

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: October 9, 2012

Lauren Sampson
Lauren Sampson, Deputy Clerk

Rule 142**RULES OF CRIMINAL PROCEDURE**

whether the contemnor is financially able to pay as ordered.

(1) Upon a determination that the defendant is financially able to pay as ordered, the issuing authority may impose imprisonment for nonpayment, as provided by law.

(2) Upon a determination that the contemnor is financially unable to pay as ordered, the issuing authority may order a schedule for installment payments.

(C) A contemnor may appeal an issuing authority's determination pursuant to this rule by filing a notice of appeal within 30 days of the issuing authority's order. The appeal shall proceed as provided in Rule 141.

Comment: This rule provides the procedures governing defaults in the payment of fines imposed as punishment for contempt in proceedings before district justices, Pittsburgh Magistrates Court judges, and Philadelphia Traffic Court judges. See 42 Pa.C.S. §§ 4137(c), 4138(c), or 4139(c). As used in this rule, "issuing authority" refers only to district justices, Pittsburgh Magistrates Court judges, and Philadelphia Traffic Court judges when acting within the scope of their contempt powers. See 42 Pa.C.S. §§ 4137, 4138, and 4139.

For contempt procedures generally, see Rule 140.

When a contemnor defaults on a payment of paragraph (A) requires the issuing authority to notify the contemnor of the default, and to provide the contemnor an opportunity to either pay the amount due or appear within a 10-day period to explain why the contemnor should be imprisoned for nonpayment. If the contemnor fails to appear, the issuing authority must issue a warrant for the arrest of the contemnor.

If the hearing on the default cannot be held immediately, the issuing authority may set bail as provided in Chapter 3.

This rule contemplates that when there has been a default pursuant to paragraph (C), the case would return to the authority who presided at the default hearing for completion of the collection process.

Note: Rule 32 adopted October 1, 1997, effective October 1, 1998; renumbered Rule 142 and amended March 3, 2004, effective April 1, 2001; amended March 3, 2004, effective April 1, 2004.

Historical Notes

By Order of Jan. 6, 2005, eff. Jan. 29, 2005, the Pennsylvania Superior Court ordered "that all references in any court rule, court order, or court decision to the Pennsylvania Unified Judicial System (including citation), automated statewide court case management system (i.e. PACMS, CPCMS and DJS) or any other legal system except as provided for in Act 207 [2004, Nov. 30, P.L. 1618] shall be deemed a reference to 'magisterial district judge'."

PART E. MISCELLANEOUS WARRANTS**Rule 150. Bench Warrants**

(A) In a court case when a bench warrant is executed, the case is to proceed in accordance with the following procedures.

(1) When a defendant or witness is arrested pursuant to a bench warrant, he or she shall be taken without unnecessary delay for a hearing on the bench warrant. The hearing shall be conducted by the judicial officer who issued the bench warrant, or, another judicial officer designated by the president judge or by the president judge's designee to conduct bench warrant hearings.

(2) In the discretion of the judicial officer, the bench warrant hearing may be conducted using two-way simultaneous audio-visual communication.

(3) When the individual is arrested in the county of issuance, if the bench warrant hearing cannot be conducted promptly after the arrest, the defendant or witness shall be lodged in the county jail pending the hearing. The authority in charge of the county jail promptly shall notify the court that the individual is being held pursuant to the bench warrant.

(4) When the individual is arrested outside the county of issuance, the authority in charge of the county jail promptly shall notify the proper authorities in the county of issuance that the individual is being held pursuant to the bench warrant.

(5) The bench warrant hearing shall be conducted without unnecessary delay after the individual is lodged in the jail of the county of issuance on that bench warrant.

(a) When the bench warrant is issued by a supervising judge of a "multi-county" investigation, grand jury, the individual shall be detained until the supervising judge is available to conduct the bench warrant hearing.

(b) In all other cases, the individual shall be detained without a bench warrant hearing if the bench warrant longer than 72 hours, or the next business day if the 72 hours expires on a business day.

(6) At the conclusion of the bench warrant hearing, following the disposition of the matter, the judicial officer immediately shall vacate the bench warrant.

(7) If a bench warrant hearing is not held within the time limits in paragraph (A)(5)(b), the bench warrant shall expire by operation of law.

(B) As used in this rule, "judicial officer" means the magisterial district judge or common pleas judge who issued the bench warrant, or the district judge or common pleas court judge designated by the president judge or by the president judge's designee to conduct bench warrant hearings in Philadelphia, trial commissioners.

Comment: This rule addresses only the procedures to be followed after a bench warrant is executed, and does not address the procedures to be followed prior to execution of bench warrants outside the Commonwealth, which are governed by the extradition procedures in §§ 9101 et seq., or to warrants issued in connection with probation or parole proceedings.

Paragraph (A)(2) permits the bench warrant hearing to be conducted using two-way simultaneous audio-visual communication, which is a form of advanced communication.

Charles Mapp, Deputy Court Administrator
Philadelphia City Hall, Rm. 336
Philadelphia, Pa 19107

6/11/17

Mr. Mapp,

It was a pleasure to meet you Thursday June 8, 2017. Pursuant to your suggestion, I went to speak with Elaine but she was not in the office at the time. As I explained to you regarding a case of October 6, 2010, I motioned for dismissal with prejudice and case was dismissed with prejudice on a 1013 Motion (237 days exceeded the allowable 180 speedy trial rule) August 22, 2012. As you know, with prejudice, means the action is not appealable.

Despite the non-appealable status of the unsubstantiated charges against me, (as I was the victim of physical assaults and serious injuries), because the prosecutor intentionally failed to serve me Notice of Appeal, neither I or anyone on my behalf was appearing in court from September through December, 2012 as prosecutor Kotchian misrepresented facts to the court to have the case proceed.

Moreover, the Common Pleas Judge Patrick was unaware during that time that I had not been served notice or more importantly, that the case could not be appealed. When I finally learned the case was in Common Pleas court, I informed Judge Patrick that I had not been given notice or opportunity though the ADA Kotchian was aware I was representing myself and did so June, July and August 2012. The Judge ignored the violations of my constitutional rights to due process erroneously allowed the appeal and said "You're here aren't you?". The proceedings after August 22, 2012 were in violation of my due process rights, retaliatory, wrongful and void.

Though I filed a private Citizen complaint against the perpetrator who had injured me then falsely implicated me by lying to the police, my scheduled hearing on January 17, 2013 was erroneously disallowed by Judge Patrick because the prosecutor objected. A different prosecutor should have been assigned to my private criminal complaint against Joe Oteri as the one in Judge Patrick's court was prosecuting me at the time. This was a definite conflict of interest.

The next day, a trial occurred where I was acquitted, but at last minute, ada Kotchian whined to the Judge "ok summary disorderly conduct". Isn't their job to seek the truth and prosecute violent criminals who seriously injure women?

Ten days later, I filed Motion to vacate based on insufficient evidence. Then my co-counsel Ms. Snyder appeared in court with a vacate motion which Judge Eubanks signed. The case was again dismissed. For some odd reason, the original Order was not in the court file when I looked at the file. Subsequently, a Notice of Appeal was filed February 11, 2013. According to the Rules, there is a 120 day requirement when a case is appealed from Municipal to common Pleas and the prosecutor must bring it to trial or the case is dismissed.

Despite the Rules, the case went on and on. I filed and tried to argue Rule 600 Motions to dismiss, but the Judge wouldn't allow me to do argue them. This was because appointed lawyer Patton wrote a derogatory letter to the Judge about me to prejudice him against me before I ever even spoke to or met him. Again, my constitutional speedy trial rights were violated, but the case dragged on until March 2014.

Based on the factual account of this travesty of justice, I am the victim of injuries and injustice and believe have more than paid my dues for breaking no law while attending a phillies playoff game. I'd appreciate if you could forward this information to have the disposition errors corrected.

Thank you, Jo Ann Fonzone, Esquire

-9-

John Fonzone Esquire

Dominic Rossi
Court Compliance
Philadelphia City Hall, Rm. 370
Philadelphia, Pa 19107

5/11/17

Mr. Rossi,

I have been trying to reach you to discuss the legal circumstances surrounding the matter at issue. Then I was told to write to you by your assistant Mr. Jordan. Last week I sent via fax a number of documents evidencing the fact that I motioned for dismissal with prejudice and case was dismissed with prejudice on a 1013 Motion (237 days exceeded the allowable 180 speedy trial rule) August 22, 2012. As you know, with prejudice, means the action is not appealable.

Despite the non-appealable status of the unsubstantiated charges against me, as I was the victim of physical assaults and serious injuries, because the prosecutor intentionally failed to serve me Notice of Appeal, neither I or anyone on my behalf was appearing in court from September through December, 2012 as Kotchian misrepresented facts to the court to have the case proceed.

Moreover, the Common Pleas Judge Patrick was unaware during that time that I had not been served notice or more importantly, that the case could not be appealed. When I finally learned the case was in Common Pleas court, I informed Judge Patrick that I had not been given notice or opportunity though the ADA Kotchian was aware I was representing myself and did so June, July and August 2012. The Judge ignored the violations of my constitutional rights to due process, erroneously allowed the appeal and said "You're here aren't you?". The proceedings after August 22, 2012 were in violation of my due process rights, retaliatory, wrongful and void.

Though I filed a private Citizen complaint against the perpetrator who had injured me then falsely implicated me by lying to the police, my scheduled hearing on January 17, 2013 was erroneously disallowed by Judge Patrick because the prosecutor objected. A different prosecutor should have been assigned to my private criminal complaint against Joe Oteri as the one in Judge Patrick's court was prosecuting me at the time.

The next day, a trial occurred where I was acquitted, but at last minute, ada Kotchian whined to the Judge, "ok summary disorderly conduct". Isn't their job to seek the truth and prosecute violent criminals who injure women?

Ten days later, I filed Motion to vacate based on insufficient evidence. Then my co-counsel Ms. Snyder appeared in court with a vacate motion which Judge Eubanks signed. The case was again dismissed. For some odd reason, the original Order was not in the court file when I looked at the file. Subsequently, a Notice of Appeal was filed February 11, 2013. According to the Rules, there is a 120 day requirement when a case is appealed from Municipal to common Pleas and the prosecutor must bring it to trial or the case is dismissed.

Despite the Rules, the case went on and on. I tried to argue Rule 600 Motions to dismiss, but the Judge wouldn't allow me to do so. This was because appointed lawyer Patton wrote a derogatory letter to the Judge about me to prejudice him against me before I ever even spoke to or met him. Again, my constitutional speedy trial rights were violated, but the case dragged on until March 2014.

Based on the factual account of this travesty of justice, I am the victim of injuries and injustice and believe have more than paid my dues for breaking no law while attending a phillies playoff game. Sincerely,
Dominic Rossi

THE \$39.10 COURT FILING FEE IS REQUIRED TODAY

ACCEPTABLE FORMS OF PAYMENT: CASH, MONEY ORDER
(You may use major credit cards, and debit cards from 9am until 3:30pm)

Name of the person who you wish to file against: Joe Oteri
(one person per sheet) | G
Home or work Address for this person during the day: Citizens Bank Park | B
City: Philadelphia State: PA Zip: _____

This person's Race is: Black White Asian Hispanic Other
(please circle one)

AGE: 47 SEX: Male or Female HEIGHT: average WEIGHT: medium
Hair color: brown Eye Color: ?

Were you threatened or assaulted?

YES

Do you want someone evicted?

NO FIRED From

Briefly write the exact threat or explain the assault:

I was watching the Phillies playoff game, sitting and watching my rail like the other 46,000 fans. A man in blue shirt suddenly grab and pull at my right arm. I moved to my left to get away from him. Later, he and another (very large man) started getting rough grabbing, then pushing me into the seat in front of me and my head hit a guy in front of me yelled to them "Let her alone, she's not doing anything." Then they dragged me from the section and pushed me from behind up where I was told to "stay there." About 1 minute later I was sitting when Oteri grabbed me, grabbed me, grabbed me.

Were the police notified? Yes or No

I called 911.

I was sitting when Oteri grabbed me, grabbed me, grabbed me.

If yes, write the district or District Control Number (DC#) 1st District

Were either you or the person you are filing against Arrested during this incident?

Yes or No, if yes who: I was because Oteri provided false information to falsely implicate me. Sec. 5105 (a)(5), 5304 (d), 5301, 4906
18 Pa.C.S.A.

Date(s) of incident(s)
October 6, 2010

Time(s) of incident(s)
5:47 p.m.

Location(s) of incident(s)
Citizens Bank Park

PRIVATE CRIMINAL COMPLAINT



COMMONWEALTH OF PENNSYLVANIA

THE PHILADELPHIA MUNICIPAL COURT
Criminal Justice Center
1301 Filbert Street
Philadelphia, PA 19107

COMMONWEALTH OF PENNSYLVANIA
vs.

JOE OTERI

CITIZENS BANK PARK

1 CITIZENS BANK WAY

Philadelphia, PA 19148

CR -

DISTRICT ATTORNEY'S OFFICE

☐ Approved ☐ No Opinion

Disapproved because:

*Retaliation
Lack of proof for 1 me
Prove that I did not
Jed I know*

DATE 7/4/12

ASSISTANT DISTRICT ATTORNEY

DATE 7/3/2012

INTERVIEWER

DEFENDANT DESCRIPTION

RACE	SEX	HEIGHT	WEIGHT	COLOR OF HAIR	COLOR OF EYES	DAY OF BIRTH (Mo., Day, Yr.)
WH	Female	5'0"	175	BRN	UNK	11/4/50
OTHER						

I, the undersigned do hereby state under oath or affirmation my name is MS. JO ANN FONZONE
My address is 2242 TILGHMAN ST. ALLENTOWN, PA. 18104
The accused has violated the Crimes Code or other laws of the Commonwealth of Pennsylvania in Philadelphia County about 10/6/2010 5:47:00 PM, 1 CITIZENS BANK WAY PHILA PA

The said acts were:

Comp was attending a Phillies game and acc was a stadium employee for Citizens Bank Park. On the above date, time, and location comp was standing and cheering with her rally towel when acc (white male dressed in a blue shirt) grabbed comp's right arm. Acc began pulling on comp's right arm, comp moved away and acc continued pulling comp's arm. Comp believes a police officer (white male dressed in a white shirt) approached comp and acc. Comp states acc and the officer pushed comp causing comp to hit her head on the back of the seat in front of her. Comp then fell to the ground. When comp grabbed her purse, acc and the officer pulled comp off the ground by comp's arms and began pushing comp up the steps. Acc and the officer escorted comp onto the concession stand concourse. Police notified DC# 10-03-042106. Medical treatment sought. Comp does not know what this incident stems from. CHARGES: 903 CRIMINAL CONSPIRACY (M2), 2701 SIMPLE ASSAULT (M2), 2700 HARASSMENT (S). all of which were against the peace and dignity of the Commonwealth of Pennsylvania and contrary to law. I ask that a summons or a warrant of arrest be issued and that the accused be required to answer the charges.

COMMONWEALTH OF PENNSYLVANIA:
COUNTY OF PHILADELPHIA:

SS

And now, this date _____ 20____, I certify the complaint has been properly deposed and executed and that there is probable cause for the issuance of process.

Judge

SUMMONS

YOU ARE COMMANDED TO APPEAR BEFORE THE
PHILADELPHIA MUNICIPAL COURT FOR ARRAIGNMENT

DATE (Fecha)

TIME (Tiempo)

I, _____
verify that the facts set forth in this complaint are true and correct best of my knowledge, information and belief. This is made subject to unsworn falsification to authorities.

Date 8/3/12

Signature

CITATION

USTED ESTA ORDENADO PARA APARECER ANTE LA CO
MUNICIPAL DE FILADELPHIA PARA LECTURA DE ACUSAC

LOCATION (Sitio)

Criminal Justice Center
1301 Filbert Street - Room 408
Philadelphia, PA

If you fail to appear at the time and place mentioned, a Warrant will be issued for your arrest. You have the right to be represented by an attorney.

Si usted falta de aparecer al lugar y tiempo mencionado una citación será entregado para su arresto. Usted tiene el derecho de ser representado por un abogado.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of this Court this

RECEIVED

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY

ACTIVE CRIMINAL RECORDS
CRIMINAL MOTION COURT

COMMONWEALTH OF PENNSYLVANIA

VS

JOSEPH OTERI

ML-51-CR

0043169-

2010

CP-51-2013

MD-61-2013

PRIVATE CITIZEN APPEAL OF MUNICIPAL COURT DECISION ON CITIZEN COMPLAINT

Jo Ann Fonzone aka Judy Mc Grath , a private citizen hereby appeals ,(pursuant to Criminal Procedure Rule 840 c) of the to this Honorable Court of Common Pleas of the decision of the Municipal Court in denying the issuance of her private criminal complaint against Joseph Oteri of the incident on October 6, 2010 . In July 2012, when private citizen learned the name of the security guard , Oteri , that falsely implicated her in the criminal system, after he caused her serious injuries to her head and right arm, hand and shoulder, she filed a private criminal complaint with the District Attorney private citizen complaint office . After they refused to take any action, question or investigate or even serve the complaint on Oteri, Petitioner inquired as to the appeal process, and was told by Micvhele Wolfe that her complaint would be forwarded to the municipal Court for review. The complaint was to include alleged violations of Pa. C.S.A. Sec. 5301 , " A person acting or purporting to act in an official capacity commits a misdemeanor of the 2nd degree if he, 1) subjects another to arrest , search, seizure, mistreatment or other infringement of personal or property rights; or 2) denies or impedes another in the exercise or enjoyment of any right , privilege...and 5105 , 5504

(d) " A person who knowingly gives false information to any law enforcement officer with the

intent to implicate another under this section commits an offense under Section 4906.

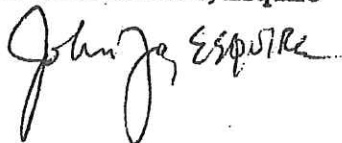
The private criminal complaint also contained allegations of assault, Sec.2701(though because of the serious injuries , it should have been aggravated assault) , battery, harrassment Sec.2709 and criminal conspiracy, Sec. 903 unlawful restraint, reckless endangerment .

The assistant 's disapproval was the usual prosecutorial discretion and judicial economy as though the serious physical and emotional injuries of the crime victim, and the continuous legal harrassment ,abuse , and financial burden that she suffers from is unimportant to the law enforcement agency . It is unknown to the private complaint affiant whether the assistant da gave the municipal court all of the supporting documents and evidence that she submitted for its review .

Supporting documents that were given for review included affidavits, photos of severe injuries, a 911 cd ,(when Jo Ann Fonzone called for help because she was being physically assaulted by a police officer , after being falsely implicated by Oteri,) and other documents Ms. Fonzone was at a Phillies playoff game and was doing nothing wrong or illegal , she was standing and cheering with her rally towel , like the other 47,000 fans when she was grabbed by her right arm then pushed into the stadium seat by the security guard. She did not know he was a security guard when he proceeded to grab her arm and touch her without her consent, push her and pull at her arm, then later push her head into the seat in front of her which caused her to fall to the cement ground causing her serious injuries to her head and body.

WHEREFORE, Petitioner respectfully requests that this Honorable Court grant this Motion to reverse the Municipal court decision denying her private citizen complaint in accordance with Criminal court rule 840 and issue a summons for Joe Oteri to appear before the Municipal Court for Arraignment.

Respectfully submitted,
Jo Ann Fonzone, Esquire



**John F. Kennedy Behavioral Health Center
112 N. Broad Street
Philadelphia, PA 19102**

Psychiatric Evaluation

Patient: JoAnn Fonzone **Client Chart #:** 3180
Address: 2242 Tilghman Street **Date of Birth:** 7/19/58
Allentown, PA 18104 **Date of Evaluation:** 10/19/11
Phone: 484-294-6481 **Social Security #:** _____

Referral Source: Self

Purpose of Evaluation:

Psychiatric evaluation

Chief complaint/Presenting symptoms:

Client is a 53 year old separated Caucasian female. She states she is Court ordered for a psychiatric evaluation. Client states that on October 6, 2010 she was at a Phillies game by herself. In the second inning someone in a blue shirt started pulling on her. She was dragged over the concession area. She was then "dragged" to the police room at the stadium. Five years prior, she was the victim of an assault in which she sustained multiple rib fractures. She states she was thrown into a wall by one of the officers. She states she called 911 and told them she was being assaulted. Then an officer came in and started beating her with his stick and demanding her phone. She was later taken to another station and finger printed. She was charged with disorderly conduct because she was standing.

An officer saw her bruises and sent her to the emergency room. She states she sustained a contusion and developed cardiac problems, i.e. atrial fibrillation.

History of Presenting Symptoms:

She states she has flashbacks every three weeks. She sleeps approximately seven hours. She was not gone to a Phillies games since. She is less social. She is more hypervigilant. She is uncomfortable and worries about her safety if she goes out alone. Mood is "ok". Appetite is okay, weight is up a little. No auditory or visual hallucinations. No history of panic disorder. No anorexia or bulimia. No obsessive compulsive behaviors. No hypomanic or manic behaviors. No suicidal or homicidal ideation. No history of self injurious behavior.

On September 23, 2011 the police broke into her mother's house because she missed a court date. As a result she no longer feels safe there.

Name: JoAnn Fonzone

Past psychiatric history (including substance abuse history, if any)

Abused Women's Group
No inpatient or outpatient psychiatric treatment.
No drug or alcohol abuse.

Medical history (including medication and allergies):

Atrial Fibrillation	Toprol 75mg po BID
Three motor vehicle accidents	ASA 81mg (2) po daily
Optic Stroke with loss of vision in right eye	
S/P concussion	
Allergy – PCN – GI upset	
Codine – GI upset	

Social History (including cultural background, education, occupation, legal history, etc.):

Lawyer
Some sporadic work
History of domestic abuse, no sexual abuse
No children
Married 1983, legally separated since 1993, husband was abusive, physically and financially
Family medical and psychiatric history:

Mother – HTN
Father – deceased 1987, MI, DM
Brother – HTN
Two sisters – alive and well

History of past traumatic experiences:

Assaulted 1993 in New York
Assaulted 2005 by a restaurant owner

Past psychiatric medication (including allergies or adverse reaction to medication):

Denied

Present medication:

Denied

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Name: JoAnn Fonzone

Mental Status:

Client is a 53 year old separated Caucasian female who is well nourished and well developed. She has no psychomotor abnormalities. She is alert and oriented to person, place and time. Mood is "okay", affect is appropriate. Thought processes are goal directed. She has no thought insertion or withdrawal. No auditory or visual hallucinations. No suicidal or homicidal ideation. Judgement and insight are good.

Clinical formulation (please include client strengths, barriers to recovery, progress made towards recovery, present goals and aspirations for treatment):

Client is an articulate and insightful woman. She is just here to have the evaluation done as per courts request.

She is a long standing victim of multiple abuses. She would benefit from therapy but feels that she can not financially afford it at this time.

Diagnosis:

Axis I(Code): 309.81 Diagnosis: Post Traumatic Stress Disorder Chronic
(Code): _____ Diagnosis: _____

Axis II: (Code): _____ Diagnosis: _____

Axis III: Atrial Fibrillation, S/P concussion, S/P 3MVA's

Axis IV: Finances, legal, health

Axis V(GAF): 68

Medication prescribed:

None at this time.

Treatment goals and type of treatment recommended:

1. Would recommend individual therapy to address anxiety associated with abuse and trauma.
2. Would consider antidepressant trial as well. Antidepressants have been shown to be beneficial in decreasing post traumatic stress symptoms

Buster Smith, MD
Psychiatrist Name (Print)


Psychiatrists Signature

10/19/11
Date

DO WHAT YOU SAID YOU WOULD DO

one hundred plus day siege of the federal courthouse in Portland. It showed Antifa members smashing windows, burning cars, and burning the American flag.

It's always difficult in a hearing to coordinate the use of video with testimonies and questions. It's especially tough when Republicans are in the minority in the House. The majority Democrats control the computers and TVs in the room. They always "seem to have trouble" when it's a Republican video. We decided to take the risk.

We figured the safest time to play it was right after my opening statement. The Democrats could probably avoid "trouble," but we brought our own TV just in case the TV screens in the room the Democrats controlled didn't work. The day before the hearing, I asked our top communications staffer to put together a montage of Democrats and journalists saying "peaceful protest." Putting the montage on the front end of the video added about ninety seconds to the clip.

Right after the opening statements, we played it. We felt it was important for the country to see. The mainstream press had not covered the violence of that summer. It began with an MSNBC reporter Ali Velshi standing in front of a large building engulfed in flames. As the building burns in the background, the reporter says, "I want to be clear on how I characterize this. This is mostly a protest. It is not, generally speaking, unruly."

I am not kidding. The building is on fire, but it's "not, generally speaking, unruly." Really? I guess it was a fire that just happened. No one started it. It started itself. It was spontaneous. A spontaneous, peaceful fire!

DO WHAT YOU SAID YOU WOULD DO



FIGHTING FOR FREEDOM
IN THE SWAMP

CONGRESSMAN
JIM JORDAN

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CERTIFICATE OF SERVICE

I, Jo Ann Fonzone, Esquire aka Judy Mc Grath hereby certify that I have on this day caused to be served by U.S. Mail Plaintiff's Reply to defendants motion to dismiss her civil rights/injury action upon the following as listed below:

Kathryn Faris
City of Philadelphia
1515 Arch St., 14th floor
Philadelphia, Pa 19102

Michael Eidel
Fox Rothschild
2700 Kelly Road
Warrington, Pa 18976

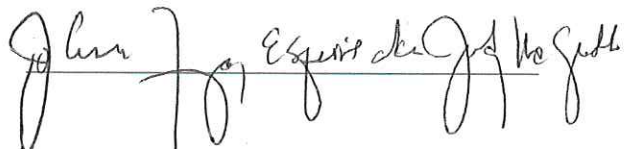
James Binns
1125 Walnut St.
Phila., Pa 19107

The Philies Organization management
One Citizen Bank Park Way
Phila., Pa 19148

Phila. District Attorneys' office
3 Penn Square
Phila. Pa 19107

Defender Assocs.
1441 Sansum St.
Phila., Pa 19107

April 18, 2022



Jo Ann Fonzone, Esquire aka Judy Mc Grath